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Attorneys for Plaintiffs Organized Village of Kake et al.

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF ALASKA

ORGANIZED VILLAGE OF KAKE <i>et al.</i> ,)	
)	
Plaintiffs,)	
v.)	Case No. 1:20-cv-00011-SLG
)	
THOMAS VILSACK <i>et al.</i> ,)	
)	
Defendants.)	
)	

JOINT STATUS REPORT AND MOTION TO EXTEND STAY

Plaintiffs and Defendants jointly submit this status report and move the Court to continue the stay of this litigation until Defendants publish a final rule in the Federal Register addressing inventoried roadless areas in the Tongass or until such time as one of them may move for its modification. The parties propose that they submit status reports,

jointly if possible, to the Court every 90 days to inform the Court of the status of the rulemaking.

As explained in Federal Defendants’ Status Report and Joint Unopposed Motion to Continue Stay Until January 14, 2022, the United States Department of Agriculture published a notice of proposed rulemaking on November 23, 2021; if adopted as a final rule, the notice will reinstate the Roadless Rule across the Tongass National Forest. Doc. 38 at 2; 86 Fed. Reg. 66,498 (Nov. 23, 2021). According to the notice of proposed rulemaking, the Department intends to rely on the environmental impact statement for the 2020 Alaska Roadless Rule for its analysis supporting the reinstatement of the Roadless Rule on the Tongass. 86 Fed. Reg. at 66,503. The Department is accepting public comments on the proposed rule through January 24, 2022, and expects to publish a final rule in 2022. 86 Fed. Reg. at 66, 498.

The Department does not anticipate that it will authorize any projects or activities in reliance on the Alaska Roadless Rule prior to the publication of the final rule. In the event it does, the government has already agreed to provide the parties and the Court with 30 days’ advance notice and will continue to do so during the extended stay.

See Doc. 13.

The Court has broad discretion to stay cases to promote judicial efficiency. If the Department finalizes the proposed rule, the final rule will likely resolve some or all of Plaintiffs’ concerns with the 2020 Tongass Exemption to the Roadless Rule, making it

unnecessary to adjudicate at least some of the claims raised in this lawsuit. If the Department elects to maintain all or part of the exemption, however, Plaintiffs maintain they will be harmed and expect to adjudicate Plaintiffs' claims promptly thereafter. Plaintiffs therefore request that the Court extend the current stay until the Department publishes a final rule in the Federal Register. Defendants agree that an extended stay is appropriate. The parties will submit status reports to the court every 90 days during the stay and no later than seven days after the final rule is published.

Intervenors' Position:

The Intervenor Defendants do not oppose the stay but disagree with the proposed actions and inactions of the Federal Defendants. The Federal Defendants continued assertions, for nearly a year now, that they do not anticipate that they will authorize any projects or activities is tantamount to pre-emptive denial or delay of projects.

Respectfully submitted this 21st day of January 2022,

/s/ Katharine S. Glover

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in his official capacity, the United States Department
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